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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE DISTRICT OF NEVADA
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14 UNITED STATES OF AMERICA,
15 Plaintiff,

16 WALKER RIVER PAIUTE TRIBE,
17 Plaintiff-Intervenor,

18 v.
19

20 WALKER RIVER IRRIGATION
DISTRICT, a corporation, et al.,

21 Defendants.
22

3:73-cv-00127-MMD-WGC

**SCHROEDER GROUP'S MOTION FOR
RECLASSIFICATION OF PRINCIPAL
DEFENDANT SCHROEDER GROUP**

23 PLEASE TAKE NOTICE that **Fenili Family Trust** c/o Peter Fenili and Veronica Fenili,
24 Trustees; **Six-N Ranch, Inc.** c/o Richard & Cynthia Nuti, Michael & Nancy Nuti, Ralph E. &
25 Mary E. Nuti, Ralph C. and Mary R. Nuti, and Larry and Leslie Nuti; **John and Lura Weaver**
26 **Family Trust** c/o Lura Weaver, Trustee; **Smith Valley Garage, Inc.** c/o Dan Smith and Shawna



1 Smith; and **Donald Giorgi** (collectively referred to in this litigation as “the Schroeder Group”),
2 by and through counsel, Schroeder Law Offices, P.C. and its attorneys Laura A. Schroeder,
3 Therese A. Ure Stix, and Caitlin R. Skulan hereby move this Court for an order reclassifying the
4 Schroeder Group, currently classified in the Principal Defendants group. This motion is made
5 and based upon the following Memorandum of Points and Authorities submitted herein and
6 papers and pleadings on file in this proceeding.

7 **MEMORANDUM OF POINTS AND AUTHORITIES**

8 **I. PROCEDURAL BACKGROUND**

9 **A. Counterclaims and Answers**

10 On May 3, 2019, the United States of America filed its *Amended Counterclaim of the*
11 *United States of America for Water Rights Asserted on Behalf of the Walker River Paiute Indian*
12 *Tribes* (ECF 2477-1) (“US Amended Counterclaim”). The US Amended Counterclaim seeks
13 confirmation and declaration of rights to the use and storage of water in and around lands in the
14 Walker River basin held in trust for the Walker River Paiute Tribe (“Tribe”), in addition to the
15 right to divert the natural flow of the Walker River and its Tributaries awarded to the United
16 States in *United States v. Walker River Irrigation Dist.*, No. C-125 (D. Nev. 1936), *as amended*
17 *by Order for Entry of Amended Final Decree to Conform to Writ of Mandate, etc., United States*
18 *v. Walker River Irrigation Dist.*, No. C-125 (D. Nev. 1940) (“Decree”).

19 On May 3, 2019, the Tribe filed its *Second Amended Counterclaim of the Walker River*
20 *Paiute Tribe* (ECF No. 2479) (“WRPT Counterclaim”). The WRPT Counterclaim seeks
21 recognition of a right to store water, as well as recognition of a reserved right under federal law
22 to use water, in Weber Reservoir for use on the Tribe’s Reservation lands added and restored in
23 1928, 1936 and 1972 as well as surface water rights awarded to the United States for the tribe in
24 the Decree. The Tribe also seeks recognition of a reserved right under federal law to use
25 groundwater underlying and adjacent to such lands.

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On August 1, 2019, the Schroeder Group filed its *Answer to Amended Counterclaim of the United States of America for Water Rights Asserted on Behalf of the Walker River Paiute Indian Tribe* (ECF No. 2541) pursuant to the March 7, 2019 *Stipulated Scheduling Order and Discovery Plan* (ECF No. 2437) to monitor and protect each parties respective recognized water rights in the event they should be threatened by the outcome of this litigation.

On August 1, 2019, the Schroeder Group filed its *Answer to Amended Counterclaim of the Walker River Paiute Tribe* (ECF No. 2542) pursuant to the March 7, 2019 *Stipulated Scheduling Order and Discovery Plan* (ECF No. 2437) to monitor and protect each parties respective recognized water rights in the event they should be threatened by the outcome of this litigation.

B. Scheduling Order

On March 16, 2020 this Court entered its *Order Regarding Discovery and Motion Schedule and Procedure* (ECF No. 2611) (“Scheduling Order”). The Order identifies the “Defendants” for purposes of that order as “those parties that filed answers to Plaintiffs’ Amended Counterclaims on August 1, 2019 who continue to be represented by counsel. . . .” Scheduling Order, p. 2. The Principal Defendants are further identified in the Scheduling Order to include the Walker River Irrigation District, Nevada Department of Wildlife; Lyon County; Centennial Livestock; Desert Pearl Farms, LLC, Peri Family Ranch, LLC, Peri & Peri, LLC, and Frade Ranches, Inc.; the Schroeder Group; California State Agencies (California State Water Resource Control Board, California Department of Fish and Wildlife and the California Department of Parks and Recreation); and Mono County, California. *Id.* at 1.

C. Discovery

On or around August 31, 2020, the United States and Tribe served upon Principal Defendants their *(First) Joint Discovery Requests*. The discovery requests were directed to each Principal Defendant and identified “Principal Defendants” as parties identified in the Scheduling Order and who submitted Answers to the Plaintiffs’ Amended Counterclaims.



1 On or around November 16, 2020 Principal Defendants served upon Plaintiffs *Principal*
2 *Defendants' Objections and Responses to Plaintiffs' (First) Joint Discovery Requests.*

3 On or around May 17, 2021, The United States and Tribe served upon Principal
4 Defendants their *Second Joint Discovery Requests*. The discovery requests were directed to each
5 Principal Defendant and again identified "Principal Defendants" as parties identified in the
6 Scheduling Order and who submitted Answers to the Plaintiffs' Amended Counterclaims.

7 On or around July 16, 2021, Principal Defendants served upon Plaintiffs *Objections and*
8 *Responses to Plaintiff's (Second) Joint Discovery Requests*, including the supplemental
9 objections and responses of the Schroeder Group.

10 **II. REQUEST FOR RECLASSIFICATION**

11 For the reasons stated above, the Schroeder Group is currently classified as a Principal
12 Defendant in this litigation and is actively participating in coordination with the other parties
13 identified as Principal Defendants. The Principal Defendants in which the Schroeder Group
14 coordinates with includes: (1) Walker River Irrigation District; (2) Nevada Department of
15 Wildlife; (3) Lyon County; (4) Centennial Livestock; (5) Desert Pearl Farms, LLC, Peri Family
16 Ranch, LLC, Peri & Peri, LLC, and Frade Ranches, Inc.; and (6) California State Agencies
17 (California State Water Resource Control Board, California Department of Fish and Wildlife and
18 the California Department of Parks and Recreation). These parties consist of governmental
19 entities and large corporate farming entities. In contrast the members of the Schroeder Group
20 consist of small family farms, ranches, and businesses utilizing Walker River and groundwater
21 rights almost all of which are managed through the Walker River Irrigation District.

22 Upon engaging in discovery, the Schroeder Group has determined its position more
23 closely aligns with a monitoring position rather than active participation to the level of a
24 Principal Defendant. Further, to the extent active participation is needed on behalf of parties
25 within the Schroeder Group, such participation is fulfilled by that of the Walker River Irrigation
26 District. Lastly, the parties in the Schroeder Group have determined that the time and resources



1 required to participate as active defendants in this litigation is cost prohibitive and detrimental to
2 their businesses and livelihoods. As such, they seek to be reclassified out of the “Principal
3 Defendant” group and as such will continue participation in this litigation consistent with that of
4 countless other water right holders named as defendants in this case. The Schroeder Group’s
5 reclassification out of the Principal Defendant group will promote judicial economy and will
6 prevent unnecessary costs for their respective position.

7 The Schroeder Group has consulted with the other Principal Defendants regarding its
8 wish for reclassification and received no objection.¹ Additionally, the Schroeder Group’s
9 reclassification will not prejudice the United States or Tribe in this proceeding, as the
10 participation and discovery sought thus far from the Schroeder Group as a Principal Defendant
11 has not been uniformly sought from the countless other defendants in this litigation in like
12 positions or with similar interests to the Schroeder Group. As such, the Schroeder Group should
13 be reclassified out of the Principal Defendant group.

14 **CONCLUSION**

15 For the foregoing reasons, the Schroeder Group respectfully requests the Court reclassify
16 the Schroeder Group and no longer require it to participate and coordinate as a “Principal
17 Defendant” as defined in this litigation.

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26 ¹ In conferring with the other Principal Defendants, the Schroeder Group received a response of no opposition from
all Principal Defendants except the Nevada Division of Wildlife (“NDOW”). The Schroeder Group contacted
counsel for NDOW on November 11, 2021 via email but received no response.



1 DATED this 23rd day of November, 2021.

2 SCHROEDER LAW OFFICES, P.C.

3
4 /s/ Laura A. Schroeder
5 Therese A. Ure Stix, NSB 10255
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CERTIFICATE OF SERVICE

I certify that on November 23, 2021 I caused a copy of the foregoing **SCHROEDER GROUP'S MOTION FOR RECLASSIFICATION OF PRINCIPAL DEFENDANT SCHROEDER GROUP** to be served automatically on all Represented Parties through the District Court of Nevada's CM/ECF system and automatically served by the Court on all unrepresented parties who consent to receive service by email.

Dated this 23rd day of November, 2021.

/s/ Laura A. Schroeder

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